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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|-------------------------|------------------------------|------------------|
| 09/866,831 | 05/29/2001 | Raymond Joseph Reisdorf | TP2630 | 7236 |
| 23906 7590 11/20/2003 E I DU PONT DE NEMOURS AND COMPANY LEGAL PATENT RECORDS CENTER BARLEY MILL PLAZA 25/1128 4417 LANCASTER PIKE WILMINGTON, DE 19805 | | | EXAMINER SALVATORE, LYNDA | |
| | | | ART UNIT 1771 | PAPER NUMBER |

DATE MAILED: 11/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/866,831

Applicant(s)

REISDORF ET AL.

Examiner

Lynda M Salvatore

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5, 6 and 11-16 is/are pending in the application.
- 4a) Of the above claim(s) 18 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4 and 7-10 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet.
37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Applicant's request for continuing examination (RCE) filed on October 16th, 2003 has been entered. Claim 1 has been amended as requested. Applicant's amendment to claim 1 and accompanying remarks have been fully considered and are found persuasive to overcome the claims rejected under 35 U.S.C. 102 (b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Pithouse et al., US 4,631,098 as set forth in section 4 of the last Office Action. As such, this rejection is withdrawn. However, Applicant's amendment to claim 1 is not found to patentably distinguish the claims over the prior art and upon further consideration a new grounds rejection is set forth herein below.

Claim Rejections - 35 USC § 102/103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1-3, 5, 6, and 11-16 are rejected under 35 U.S.C. 102 (b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Caldwell, US 5,418,051.

The patent issued to Caldwell teaches impregnating a porous web with a silicone polymer to impart breathability, waterproofness and repellency (Abstract). Caldwell teaches that the web may be a woven or non-woven fabric made from various fibers such as polypropylene and polyethylene (Column 4, 30-48). With regard to the limitation of completely impregnating the fabric such that the surfaces of the fabric are substantially free of the first polymer, Caldwell specifically teaches impregnating the fabric with the silicone polymer such that interstices or open cells in the region of the internal coating are mostly filled or plugged by the impregnant and

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the outer surfaces of the web are preferably substantially free of the impregnant (Column 4, 50-56). Caldwell also teaches the addition of a topcoat polymer comprising a dilute fluorochemical dispersion to provide various surface properties such as grease and chemical penetration resistance, or soil resistance (Column 32, 6-26). With regard to claims 13-16, Caldwell teaches impregnating a TYVEK® non-woven fabric, which is known in the art as a spun-bonded polyolefin (polyethylene or polypropylene) non-woven fabric.

Although, Caldwell does not explicitly teach the stress index of the polymers and the trapezoidal tear strength of the laminate, it is reasonable to presume that said properties are inherent to the laminate of Caldwell. Support for said presumption is found in the use of like materials such as a first silicone polymer and a second topcoat fluorochemical polymer and the use of like process such as internally impregnating the fabric with the silicone polymer such that the outer surfaces of the web are preferably substantially free of the impregnant, which would result in the claimed properties. The burden is upon the Applicant to prove otherwise. *In re Fitzgerald* 205 USPQ 594

In addition, the presently claimed properties would obviously have been present once the Caldwell product is provided. *In re Best*, 195 USPQ 433

Allowable Subject Matter

4. Claims 4 and 7-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Specifically, the prior art of Caldwell fails teach an ethylene methyl acrylate first polymer and a second polymer selected from the group recited in claim 10.

An updated art search did not produce any new substantial for which to base a rejection and presently no motivation exists to form an obvious type rejection.

Conclusion


5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M Salvatore whose telephone number is 703-305-4070. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

November 10, 2003

ls 


TERREL MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700